IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 10816 of 2003

Between:

1) Karri Appa Rao S/o. K. Chinna vadu,
Working as a Secretary, Teemara PACS, Pathapatnam Mandal,
Srikakulam District
2) Padala Dharma Rao S/o. Late simmanna,
Working as a Secretary, Kurigam PACS, Kothur Mandal,
Srikakulam District
3) Konchada Ganapathi Rao S/o. Late K. Krishna Murthy,
Working as a Secretary, Kosamala PACS, Meliyaputti Mandal,
Srikakulam District
4) Chikkalavalasa Sasibhushana Rao S/o. Late C. Venkata Ratnam,
Working as a Secretary, Aludu PACS, Saravakota Mandal,
Srikakulam District
5) B. Shanmuga Rao, S/o late B. Ramaiah
Working as a Secretary, Saravakota PACS,
Saravakota Mandal, Srikakulam District
6) P. Simhachalam, S/o. Late P. Sanyasi,
Working as a Secretary, Labara PACS,
Pathapatnam Mandal, Srikakulam District
7) M. Appalaswamy, S/o. late Rajappadu,
Working as a Secretary, Chipurupally PACS,
Meliaputtuga Mandal, Srikakulam District
8) S. Gajapathi Rao, S/o. Varahalu Naidu,
Working as a Secretary, M.Avalangi PACS,
Hiramandalam Mandal, Srikakulam District
9) A. Suryanarayana, S/o. Narayana
Working as a Secretary, Pathapatnam PACS,
Pathapatnam Mandal, Srikakulam District

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PETITIONERS

AND

1)The Divisional Cooperative Officer, Tekkali, Srikakulam District
2)Branch Manager, District Cooperative Central Bank, Pathapatnam

cum Person In Charge, Teemara PACS, Pathapatnam Mandal, Srikakulam District
3)Person Incharge, Kurigam PACS, Kothur Mandal, Srikakulam District
4)Branch Manager, District Cooperative Central Bank, Pathapatnam cum Person In Charge, Aludu PACS, Meliaputti Mandal, Srikakulam District
5)Person Incharge, Sarava Kota PACS, Saravakota Mandal, Srikakulam District
6)Person Incharge, Labara PACS, Pathapatnam Mandal, Srikakulam District
7)Branch Mananger, District Cooperative Central Bank, Pathapatnam cum Person In charge, Chipurupalli PACS, Srikakulam District
8)Person Incharge Cum Chairman Avalangi PACS Hiramandalam Mandal, Srikakulam District
9)Person Incharge cum Chairman Meliaputti PACS, Pathapatnam Mandal, Srikakulam District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly in the nature of Writ of Mandamus, declaring that the action of the 1st respondent pending the policy decision in issuing the proceedings RC No. 2183-C dated 31.3.2003 for termination of the services of all the petitioners and consequential action of the respondents 2 to 9 proposing to terminate the services of the petitioners after a long spell of 26 years service is illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India, and consequently by setting aside the impugned proceedings of the respondents and declare that the petitioners are entitled to continue their services with their regular salaries, and to pass such other orders that the Court may deem fit and proper in the interests of justice.

For the Petitioners : SMT.A.PADMA, Advocate.

For the Respondents : Koka Raghava Rao, Advocate .

The Court Made the following :

:: O R D E R ::

Nine of the Paid Secretaries of various Primary Agricultural Cooperative Societies in different mandals of Srikakulam District have filed this Writ Petition challenging the letter dated 31.3.2003 addressed by the first respondent-The Divisional Cooperative

Officer, Tekkali, Srikakulam District to the Persons In charge (for short `P.I.C')/Chairman of the various Primary Agricultural Cooperative Societies (for short `P.A.C.S') in which the petitioners are working as paid Secretaries. The impugned letter of the first respondent reads as under: -

1. ***The subject of 116© was not approved in the General Body of the Society and it should be got approved in the General Body of the Society and it should be got approved in the said meeting.***

2. ***As seen from the proposal furnished by the P.I.C/Chairman of the Society, the salary attached to the post is not in accordance with the provisions of the Minimum Wages Act and as such the P.I.C/Chairman is advised to take the services of the part-time employees with consolidated remuneration in place of full time shift duty restricting the establishment and contingent charges to the ceiling of 2% of the working capital or 30% of the gross profit whichever is less.***

Approved subject to the above conditions.

It is a demonstrable fact situation that various Primary Agricultural Co-operative Societies have sent up proposals under Section 116© of the A.P. Co-operative Societies Act, 1964 (hereinafter referred to as `the Act'), and Rule 28 of the A.P. Co-operative Societies Rules, 1964, inter alia proposing the salaries of the petitioners for approval of the Registrar as required under Section 116© of the Act. Having received these proposals, the first respondent had addressed the impugned letter. Para 1 of the letter informs the management of the P.A.C.S that these proposals have not been approved by the General Bodies of the respective

societies as is required. The petitioner has no grievance in respect of paragraph one of the impugned letter.

On a perusal of the proposals, the first respondent had noticed that the salaries proposed for various posts set out in the proposals is lower than the minimum wages notified for such posts under the Minimum Wages Act. Payment of any higher salary than that proposed, would violate the fiscal discipline limit mandated under Section 116© of the Act.

Faced with this piquant situation, the first respondent had merely advised the P.I.C/Chairman of various P.A.C.S to consider taking the services of part-time employees at a consolidated remuneration in place of full time employees, and that such a course of action might enable the society to get the services of staff while limiting its expenditure to the limits prescribed by Section 116©. The advice of the first respondent is *per se not* binding on the P.I.C or the Chairman of the P.A.C.S. The apprehension of the petitioners is that pursuant to the aforesaid communication of the first respondent, their employer P.A.C.S might terminate their services.

In case their services are terminated, the petitioners are always at liberty to pursue appropriate remedies either under A.P. Shops and Establishments Act, 1988 or the Industrial Disputes Act, 1947, or in any Civil Court having competent jurisdiction, after identifying the proper Forum having jurisdiction to entertain such cases. The service disputes that the petitioners have present or might have in future do not present a public law grievance warranting adjudication under Article 226 of the Constitution of India. The impugned letter of the first respondent is merely advisory in nature, and does not command compliance by the P.I.C or the Chairman of the P.A.C.S. No justiciable question arises for consideration in this writ petition. The writ petition is misconceived and beseeches dismissal.

The writ petition is accordingly dismissed. No costs.

06th July, 2004

To

1)The Divisional Cooperative Officer, Tekkali, Srikakulam District

2)Branch Manager, District Cooperative Central Bank, Pathapatnam cum Person In Charge, Teemara PACS, Pathapatnam Mandal, Srikakulam District

3)Person Incharge, Kurigam PACS, Kothur Mandal, Srikakulam District

4)Branch Manager, District Cooperative Central Bank, Pathapatnam cum Person In Charge, Aludu PACS, Meliaputti Mandal, Srikakulam District

5)Person Incharge, Sarava Kota PACS, Saravakota Mandal, Srikakulam District

6)Person Incharge, Labara PACS, Pathapatnam Mandal, Srikakulam District

7)Branch Mananger, District Cooperative Central Bank, Pathapatnam cum Person In charge, Chipurupalli PACS, Srikakulam District

8)Person Incharge Cum Chairman Avalangi PACS Hiramandalam Mandal, Srikakulam District

9)Person Incharge cum Chairman Meliaputti PACS, Pathapatnam Mandal, Srikakulam District

10)2CCs to G.P for Co-operation,High Court Buildings, Hyderabad

11)2CD copies

Rar/Pvsn